

HUMAN RIGHTS: THE DISAPPEARED

December 1979

1. **Background:** Disappearances of persons resulting from officially sanctioned political kidnappings are a relatively new and increasingly serious violation of human rights and international law. The word "disappeared" itself has become a euphemism for political murder, preceded by intensive interrogation and torture of those not charged with any crime.

Disappearances take many forms. Governments may direct their security forces, military, or police to detain persons suspected of subversion in order to remove them from circulation, obtain information, and demoralize the "opposition." Security or police forces may operate "unofficially," generally in civilian clothes, with the state's tacit approval and protection. Groups of "civilians" may operate their own pro-government terrorist forces. In all cases, people are abducted from homes, offices, or public places.

2. **International law:** International law, as set forth in the International Covenant on Civil and Political Rights (article 4), the European Convention for the Protection of Human Rights and Fundamental Freedoms (article 15), and the American Convention on Human Rights (article 27), prohibits states, even in times of public emergency, from violating basic guarantees of individual rights. A state is not permitted arbitrarily to deprive its citizens of their lives or subject them to torture or cruel, inhuman, or degrading punishment. Governments are responsible for the safety and protection of those detained, and they are required to account for the whereabouts of those apprehended.

Ample precedent exists in international law for dealing with the problem of accounting for those taken prisoner during civil and inter-state conflicts. The Geneva Convention of 1949 Relative to the Treatment of Prisoners of War sets forth procedures on how to establish mechanisms to account for those held captive. Additional protocols to the Geneva conventions in July 1977 provide more detailed measures for tracing the missing and the dead and for protecting the human rights of prisoners. These protocols assert "the right of families to know the fate of their relatives and request government record information about persons detained, imprisoned or who have died during detention."

3. **US efforts:** In countries where disappearances have been commonplace, we have registered our strong disapproval. The US makes formal and informal representations about the disappeared on our own initiative and at the request of their families and friends, members of Congress, private citizens, and human rights organizations. We present representation lists containing the names of the disappeared. We urge all concerned governments to

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publish lists of those missing and to provide death certificates for those known to have been killed. We also urge that they return the remains to relatives and establish governmental mechanisms, together with the courts, to trace missing people and clarify their status. In addition, we attempt to persuade governments that those guilty of abuses must be punished in accordance with the law.

4. UN action: The UN General Assembly adopted a resolution on disappeared persons in December 1978. It called upon governments to search for missing persons, hold law enforcement and security authorities fully accountable for disappearances, and cooperate with other governments in locating persons who disappear. It also requested the UN Human Rights Commission to consider the question and urged the UN Secretary General to use his good offices in disappearance cases and bring to the attention of governments the concerns expressed in the resolution. The US strongly supports the resolution and is working to insure its implementation.

In August 1979, the UN Human Rights Subcommittee on the Prevention of Discrimination and Protection of Minorities met in Geneva to discuss the rights of detained persons, with special emphasis on the disappeared. The subcommittee transmitted to the UN Secretary General several lists of missing persons and asked nations to take account of disappearances brought to their attention. It also proposed for approval by the Human Rights Commission the creation of a group of experts who would be given all available information for locating disappeared persons and who would contact the governments and families concerned.

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